

24.08.2023
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allowed

CRM(DB) No. 3323 of 2023

In Re:- An application for bail under Section 439 of the Code of Criminal Procedure in connection with Sankrail Police Station Case No. 1126 of 2021 dated 15.09.2021 under Sections 395/412 of the Indian Penal Code.

And
In Re : Abu Basar Laskar & Anr. petitioners

Mr. Soumya Basu Roy Chowdhuri
....for the petitioners

Mr. Joydeep Roy
Ms. Sujata Das
.... for the State

1. Petitioners are in custody for 640 days and 649 days respectively. Co-accused Rejaul Molla @ Raju and Md. Abdul Jalil were granted bail. They renew their prayer for bail.

2. Learned Counsel for the State opposes the prayer for bail and submits three witnesses have been examined and bail was granted to the co-accused prior to conclusion of one year while rejecting bail of the co-accused, Md. Abdul Jalil.

3. We have considered the materials on record. Bail prayer of Md. Abdul Jalil was rejected in June, 2022. Trial was directed to be concluded within one year from the next date fixed for recording evidence. Thereafter on the ground of delay in trial he was released on bail in July, 2023. We do not consider that grant of bail to Md. Abdul Jalil was contrary to the direction given by this Court earlier. Be that as it may, co-accused Rejaul Molla @ Raju and Md. Abdul Jalil were alleged to be present at the place of occurrence. Petitioners do not stand on the same footing with the

said co-accused. Though it is submitted that three witnesses have been examined there is little possibility of trial concluding in near future. Offences, if proved, would not attract mandatory life imprisonment. Under such circumstances we are inclined to enlarge the petitioners on bail on the ground of delay in trial.

4. Accordingly, we direct that the petitioners shall be released on bail upon furnishing a bond of Rs.10,000/- each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, Howrah. In view of the fact that petitioners may commit similar offences in future we direct that they shall remain within the District of Howrah and meet the Detective Department, Howrah, once in a month until further orders. They shall appear before the trial court on every date of hearing until further orders and shall not intimidate the witnesses and/or tamper with evidence in any manner whatsoever.

5. In the event the petitioners fail to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel their bail in accordance with law without further reference to this Court.

6. The application for bail is, accordingly, allowed.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)